
STATUTORY INSTRUMENTS

2006 No. 371

HOUSING, ENGLAND

**The Licensing of Houses in Multiple Occupation
(Prescribed Descriptions) (England) Order 2006**

<i>Made</i>	- - - -	<i>15th February 2006</i>
<i>Laid before Parliament</i>		<i>22nd February 2006</i>
<i>Coming into force</i>	- -	<i>6th April 2006</i>

The Secretary of State, in exercise of the powers conferred by section 55(3) of the Housing Act 2004(1), makes the following Order:

Citation, commencement and application

1.—(1) This Order may be cited as The Licensing of Houses in Multiple Occupation (Prescribed Descriptions) (England) Order 2006 and shall come into force on 6th April 2006.

(2) This Order applies to any HMO(2) in England, other than a converted block of flats to which section 257 of the Act applies.

Interpretation

2. In this Order—

- (a) “the Act” means the Housing Act 2004; and
- (b) “business premises” means premises, or any part of premises, which are not, or are not used in connection with, and as an integral part of, living accommodation.

Description of HMOs prescribed by the Secretary of State

3.—(1) An HMO is of a prescribed description for the purpose of section 55(2)(a) of the Act where it satisfies the conditions described in paragraph (2).

(2) The conditions referred to in paragraph (1) are that—

- (a) the HMO or any part of it comprises three storeys or more;

(1) 2004 c. 34. The powers conferred by section 55(3) of the Act are exercisable, as respects England, by the Secretary of State and, as respects Wales, by the National Assembly for Wales. See the definition of the appropriate national authority in section 261(1).

(2) For the meaning of HMO see sections 77 and 254 to 259 of the Act.

- (b) it is occupied by five or more persons; and
 - (c) it is occupied by persons living in two or more single households.
- (3) The following storeys shall be taken into account when calculating whether the HMO or any part of it comprises three storeys or more—
- (a) any basement if—
 - (i) it is used wholly or partly as living accommodation;
 - (ii) it has been constructed, converted or adapted for use wholly or partly as living accommodation;
 - (iii) it is being used in connection with, and as an integral part of, the HMO; or
 - (iv) it is the only or principal entry into the HMO from the street.
 - (b) any attic if—
 - (i) it is used wholly or partly as living accommodation;
 - (ii) it has been constructed, converted or adapted for use wholly or partly as living accommodation, or
 - (iii) it is being used in connection with, and as an integral part of, the HMO;
 - (c) where the living accommodation is situated in a part of a building above business premises, each storey comprising the business premises;
 - (d) where the living accommodation is situated in a part of a building below business premises, each storey comprising the business premises;
 - (e) any mezzanine floor not used solely as a means of access between two adjoining floors if—
 - (i) it is used wholly or mainly as living accommodation; or
 - (ii) it is being used in connection with, and as an integral part of, the HMO; and
 - (f) any other storey that is used wholly or partly as living accommodation or in connection with, and as an integral part of, the HMO.

Signed by authority of the First Secretary of State

15th February 2006

Kay Andrews
Parliamentary Under Secretary of State
Office of the Deputy Prime Minister

EXPLANATORY NOTE

(This note is not part of the Order)

This Order prescribes a description of a house in multiple occupation (“HMO”) to which Part 2 of the Housing Act 2004 (“the Act”) applies. Under section 61(1) of the Act every HMO to which Part 2 of the Act applies must be licensed unless it is subject to either a temporary exemption notice under section 62 of the Act or an interim or final management order under Chapter 1 of Part 4 of the Act.

The Order applies to HMOs in England but does not apply to converted blocks of flats to which section 257 of the Act applies. These are buildings that have been converted into and consist of self-contained flats where the building work undertaken in connection with the conversion did not comply with the appropriate building standards and still does not comply with them, and less than two-thirds of the self-contained flats are owner-occupied.

Article 3(2) sets out the conditions HMOs must satisfy in order to be of a description prescribed by article 3(1). One of the conditions is that all or part of an HMO comprises three or more storeys. Article 3(3) lists the storeys of an HMO that are to be taken into account when calculating whether the HMO or any part of it comprises three storeys or more.

A full regulatory impact assessment of the effect that this Order will have on the costs of business is available from the Licensing Branch, the Office of the Deputy Prime Minister 2/ G9 Eland House, Bressenden Place, London, SW1E 5DU (telephone 0207 944 3149, e-mail licensing@odpm.gsi.gov.uk).